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09/970,910	10/04/2001	Laurie E. Gathman	US 010497	1828

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EXAMINER

BASHORE, ALAIN L

ART UNIT	PAPER NUMBER
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1762

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/970,910
Filing Date: October 04, 2001
Appellant(s): GATHMAN ET AL.

MAILED

JUL 03 2006

GROUP 1700

Mr. William Munck
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7-15-05 appealing from the Office action
mailed 1-12-05.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,496,809	Nakfoor	12-2002
5,794,207	Walker et al	8-1998
5,769,269	Peters	6-1998
2003/0135440	Senga	7-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth below:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16, 18-24, 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakfoor in view of Walker et al (207).

Nakfoor discloses providing an electronic ticket control system for issuing virtual tickets to public-facility patrons through virtual ticket devices where there is received virtual ticket exchange requests from a plurality of virtual ticket devices (fig 1). The exchange requests are stored in a database and analyzed to determine if any are eligible for exchange and the virtual tickets are updated with a validity check performed

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(col 3, lines 30-67; col 4, lines 1-6; col 5, lines 30-40) and incentives are disclosed (col 4, lines 51-57). A fee is also disclosed by Nakfoor (col 5, lines 18-20).

Since both parties of the secondary market are disclosed are customers to Nakfoor, they are therefore patrons for the purpose of claim interpretation.

Regarding claim 24, Nakfoor discloses electronically brokering the exchange of seats (as the tickets represent seat attendance/occupancy itself) of patrons at a public facility.

Nakfoor does not explicitly disclose:

- sending an exchange notification message and receiving an exchange confirmation message;

- an exchange of seats between patrons (where each patron receives the seat of another patron, i.e. a swap) as claim 24 is currently interpreted.

Walker et al (207) discloses sending an exchange notification message and receiving an exchange confirmation message (col 19, lines 55-60) and the use of swaps between parties (col 30, lines 30-39).

It would have been obvious to one with ordinary skill in the art to include sending an exchange notification message and receiving an exchange confirmation message

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because Walker et al (209) discloses legally binding steps required in transactions (col 19, lines 63-65).

It would have been obvious to one with ordinary skill in the art to include an exchange of seats between patrons because Walker et al (209) teaches a barter environment may occur in transactions between parties per se (col 30, line 31-32).

Claims 17, 25, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakfoor in view of Walker et al (207) as applied to claims above, and further in view of Peters and Senga.

Nakfoor and Walker et al (207) do not disclose providing the patrons images of views from seats available for exchange or prioritizing ticket exchange requests.

Senga discloses providing the patrons images of views from seats available for exchange (para 0116) and prioritizing ticket exchange requests (para 0050).

It would have been obvious to one with ordinary skill in the art to include providing the patrons images of views from seats available for exchange because Peters teaches ticket acceptability is dependent on seating location and view ability (col 13, lines 2-3).

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It would have been obvious to one with ordinary skill in the art to include prioritizing ticket exchange requests because Senga teaches priority of importance to commodities (para 0022).

(10) Response to Argument

The recitation of exchange as broadly construed includes selling regardless of primary or secondary markets. Regarding the recitation of “public-facility patrons”, the claim and specification does not provide for applicant’s definition argued in the appeal brief regarding “purchasers of tickets who have physically entered the public facility”. The recitation is considered broadly as patrons who are associated to a public-facility. The claims do not prohibit a intermediary (i.e. a broker) as described by the prior art.

The disclosure to “legally binding steps required in transactions” encompass notification and confirmation messages because it would have been well known to one with ordinary skill in the art that contractual matters per se require basic obligations.

The disclosure of “barter” is within the concepts of buying and selling.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

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(12) Conclusion


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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